

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JOSEPH R. TOLREE,

Plaintiff,

v.

Case Number 05-10002-BC
Honorable David M. Lawson

COMMISSIONER OF
SOCIAL SECURITY,

Defendant.

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT
AND RECOMMENDATION, GRANTING DEFENDANT'S MOTION FOR SUMMARY
JUDGEMENT, AND AFFIRMING COMMISSIONER'S FINDINGS**

This matter is before the Court on the defendant's motion for summary judgment. The motion was referred to United States Magistrate Judge Charles E. Binder pursuant to 28 U.S.C. § 636(b)(1)(B) and E.D. Mich. LR 72.1. The magistrate judge issued his report on July 29, 2005, recommending that this Court grant the defendant's motion and affirm the findings of the Commissioner. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, the plaintiff did not file any objections. The plaintiff's failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the magistrate judge.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation [dkt # 14] is **ADOPTED**, and the defendant's motion for summary judgement [dkt # 13] is **GRANTED**.

It is further **ORDERED** that the findings of the Commissioner are **AFFIRMED**.

It is further **ORDERED** that this case is **DISMISSED WITH PREJUDICE**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: August 17, 2005

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on August 17, 2005.

s/Tracy A. Jacobs
TRACY A. JACOBS